

CONTEMPO HOMEOWNERS ASSOCIATION

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ADR POLICY AND PROCEDURES GUIDELINES ALTERNATIVE DISPUTE RESOLUTION

ADR– ALTERNATIVE DISPUTE RESOLUTION:

The ADR requirement applies only to lawsuits related to declaratory, injunctive, or writ relief, or a claim for monetary damages of ten thousand dollars (\$10,000.00) or less [Five thousand dollars (\$5,000) or less if the action is brought by the Association]. The requirement to use a form of ADR first does not apply to: a) assessment disputes; or to: b) Small Claims Actions.

Any party to a dispute may start an ADR process by serving a written “Notice for Resolution on all parties to the dispute. The request for resolution must include, and is subject to, all of the following:

The California Civil Code requires Association Members, and/or the Association, prior to commencing litigation for an injunction or declaratory relief, to enforce Association governing documents, to attempt to submit the matter first to a mediation or arbitration (**ADR**) process.

The law applies to suits involving:

- 1) Member vs Member; Member vs Association, and Association vs Member;
- 2) for injunction and/or declaratory relief, and which
- 3) seek enforcement of Association governing documents.

The law does not apply to:

- 1) suits seeking damages in excess of \$5,000;
- 2) collection of assessments;
- 3) suits filed within 120 days of the suit being barred by the statutes of limitations; and
- 4) suits seeking other than injunction or declaratory relief.

Any party to the dispute may initiate the procedure [ADR] and, if they do, must **serve** the other party with a “Request for Resolution” containing:

- 1) description of the dispute;
- 2) Request for Alternative Dispute Resolution
- 3) written notice that the other party is required to respond within thirty (30) days; and
- 4) if the “Request for Resolution: is served on a Member, it shall also include a copy of the applicable Civil Code Sections. §5920 and §5965

and following Service of the request may be:

- 1) by mail with return receipt; or
- 2) by personal delivery; or
- 3) if personal delivery cannot be accomplished to an Association President, Vice President, Secretary, Treasurer, or General Manager, by “*substitute service*: (i.e. leave the request at the office with the person in charge and mail a copy to the person to be served.)

Requirements for Serving an ADR Request:

The Request for Resolution must contain **all** of the following

1. A description of the dispute
2. A request for ADR

3. A notice to respond within 30 days of receipt of the request or the Request for Resolution will be considered to be rejected.
4. If the party served with the Request for Resolution is an owner, the Request for Resolution **must** include a copy of the Civil Code **§5920 and §5965 and following.**}

The request for Resolution must be personally delivered to the other party (or parties) to the dispute or sent by: a) first class U. S. Mail; b) Express Mail; c) facsimile transmission; or d) other reasonable means.

Thirty (30) Days in which to respond

Once a party has received a Request for Resolution, that party has thirty (30) days in which to respond.

If a party fails to respond to a Request for Resolution, it amounts to that party rejecting the Request for Resolution and the other party has the right to proceed with a lawsuit against that non-responding party. If litigation is filed, the rejecting party may be responsible for the other party's (or parties') legal fees and costs.

Ninety (90) Days to Complete ADR Process after Acceptance of Request for Resolution:

After the parties have agreed to proceed with ADR, ADR must be completed within ninety (90) days after the Request for Resolution is accepted unless both parties agree to extend the time period.

Parties must agree to:

- 1) mediation – a third person is chosen to hear the dispute and assist the parties to settle the matter; or
- 2) arbitration – a third person is chosen to hear the matter and render a decision. Parties must agree, in advance, that the arbitrator's decision will be binding or non-binding; or
- 3) other forum or method, as agreed by the parties, such as a panel of Association Members.

NOTE: "Failure of a Member of the Association to comply with the pre-filing requirements of **§5965 and following** of the California Civil Code may result in the loss or (that party's) rights to sue the Association or another Member of the Association regarding enforcement of the governing documents or the applicable law."

Testimony given, and evidence submitted, during the Alternative Dispute Resolution proceeding is not admissible in any subsequent legal proceeding.

Per the California Civil Code, Cost of ADR to be Shared Equally

The costs of the ADR shall be equally shared by all parties participating in ADR. By requesting resolution (or agreeing to Request for Resolution) all involved parties are agreeing to pay an equal share of the costs of the ADR process.